

REMARKS

Claims 1-70 are pending in the application. Claims 1-44 and 54-62 have been withdrawn as being directed to a non-elected invention. Applicant reserves the right to continue the prosecution of the non-elected inventions in one or more separately filed divisional patents without prejudice or disclaimer. Claims 45-53 and 63-70 have been rejected.

The Examiner rejected Claims 45-47, 68, and 70 under 35 U.S.C. § 103 as being obvious over Kaye, U.S. Patent No. 5,390,819 ("the Kaye Patent"). The Examiner also rejected Claims 48-53 under 35 U.S.C. § 103 as being obvious over the Kaye Patent in view of James, U.S. Patent No. 2,415,012 ("the James Patent"). In addition, the Examiner rejected Claims 63-68 under 35 U.S.C. § 103 as being obvious over the Kaye Patent. Applicant respectfully traverses these rejections on the basis of the arguments previously submitted in the Notice of Non-Compliant Amendment and Response to Office Action filed on January 25, 2006, the Response to Office Action filed on October 13, 2006 and the following additional arguments in support of patentability.

The Examiner maintains that it would have been obvious to use the structured stack of flexible sheets shown in the Kaye Patent as a recreational toy because the stack, when expanded, will provide for recreation to a user. The Examiner argues that his use of hindsight reasoning to find that the expanded stack of paper sheets will provide recreation to the user is proper "so long as it takes into account only knowledge which was within the level of ordinary at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure." However, the Examiner does not provide support to show that this knowledge was within the level of ordinary skill at the time of the invention. Instead, it is simply asserted that because the sheet can be expanded, it would be obvious that it could be used for recreation. The

Kaye Patent certainly does not provide this knowledge because it teaches away from use of the stack for recreation. Instead, it teaches use of the stack within a dispenser. Furthermore, the James reference does not provide this knowledge because it reflects the use of a metal slinky constructed as a spring coil for use as a toy.

It is noteworthy that 3M, a leading manufacturer of repositionable notes, has been involved in the development of a wide variety of different products relating to repositionable notes over the years. See, Attachment A including various product offerings of 3M. Applicant is unaware of any products utilizing or suggesting the use of repositionable notes as a toy in the manner described in the present application by 3M or any other company involved in the manufacture, sale, or distribution of repositionable note pads. Instead, the expandable nature of these pads is promoted exclusively to show the manner in which the notes can be removed from a dispenser. Furthermore, metal spring slinky products have been known for decades as evidenced by the James Patent, yet again, Applicant is unaware of any developments wherein a paper based product has been modeled after the metal spring toy. The reality is that those having the most knowledge in the industry did not conceive of applying the expandable notes developed for use in a dispenser for use as a toy and there is nothing in the prior art to suggest the combination of the references to result in the Applicant's invention.

In view of the foregoing remarks, it is respectfully submitted that the claims are in condition for allowance and eventual issuance. Such action is respectfully requested. Should the Examiner have any further questions or comments that need be addressed in order to obtain allowance, he is invited to contact the undersigned attorney at the number listed below.

Acknowledgement of receipt is respectfully requested.

Respectfully submitted,

By: 

Penny R. Slicer, Reg. No. 34,017
STINSON MORRISON HECKER LLP
1201 Walnut Street, Suite 2900
Kansas City, MO 64106-2150
Telephone: (816) 842-8600
Facsimile: (816) 691-3495
Attorney for Applicant

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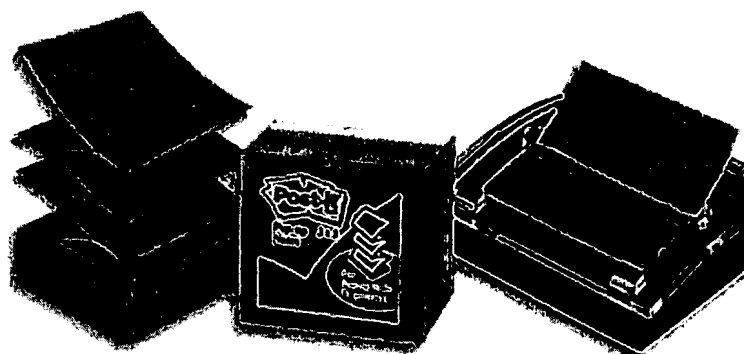
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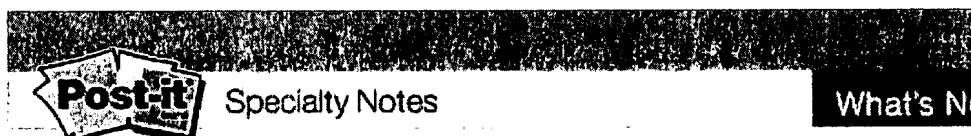
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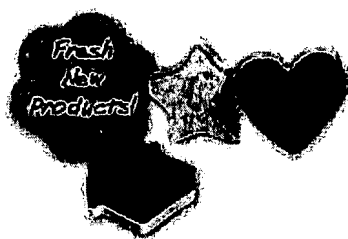
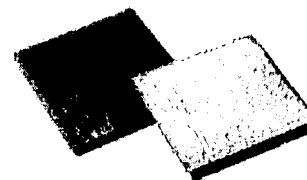
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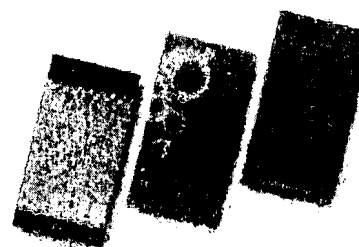
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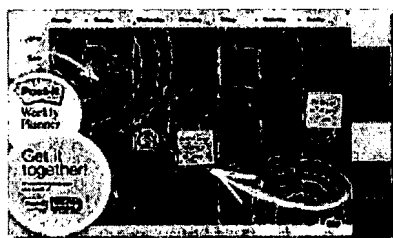
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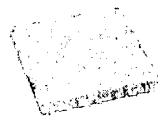
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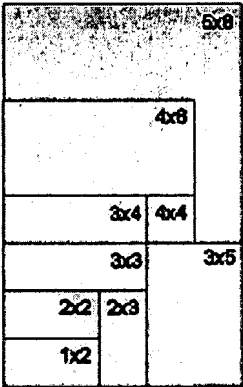
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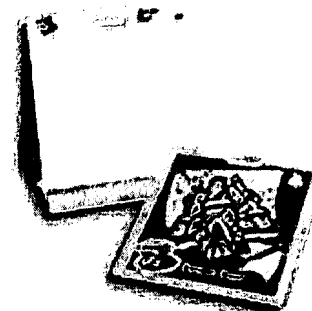
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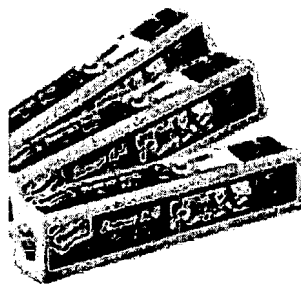
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